

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JENNIE MARTINEZ and)	CASE NO.
ALBERTA WILLERS,)	
)	
Plaintiffs,)	COMPLAINT, DEMAND
)	FOR JURY TRIAL AND PRAECIPE
vs.)	
)	
COUNTY OF ANTELOPE, NEBRASKA,)	
)	
Defendant.)	

COMES NOW the Plaintiffs, by and through their attorneys, and for their causes of action against the Defendant states as follows:

1. This is an action seeking redress for the violation of the rights guaranteed to the Plaintiffs pursuant to the Constitution of the United States of America, and amendments thereto, 42 U.S.C. Section 1983 and the Constitution of the State of Nebraska, and amendments thereto.

2. This Court has original jurisdiction over the claims arising under the United States Constitution, 42 U.S.C. Section 1983 and concurrent jurisdiction over the claims arising under the Nebraska Constitution.

3. Plaintiffs are residents of the town of Neligh, County of Antelope, Nebraska.

4. Upon information and belief, the Defendant, Antelope County, is a political subdivision located in the State of Nebraska.

5. Upon information and belief, Kelly Mueller, County Assessor for Antelope County, Nebraska and Lisa Payne, County Clerk for Antelope County,

Nebraska were acting in the scope and course of their elected positions and/or public offices at all times alleged herein.

6. At all times alleged herein, the Plaintiffs Jennie Martinez and Alberta Willers had been employed with the Defendant as office assistants since 2013 and 2014, respectively. The Plaintiffs were employed in non-management and non-policy making positions with the Defendant at all times alleged herein. The Plaintiffs satisfactorily performed their job duties during their tenure of employment with the Defendant County of Antelope, Nebraska.

7. In the spring of 2014, Kelly Mueller filed as a candidate for Antelope County Assessor against incumbent Antelope County Assessor, Heather McWhorter, who was running for re-election in 2014. Ms. McWhorter was defeated in the general election by Ms. Mueller.

8. After Ms. Mueller was elected as County Assessor, she told the Plaintiffs they would have to reapply for their jobs. Each of the Plaintiffs did so and were qualified for the positions they sought with the County. Ms. Mueller hired less qualified individuals who had supported her 2014 campaign to replace the plaintiffs.

9. Approximately 30 minutes after Ms. Mueller was sworn into office as County Assessor on January 9, 2015, she terminated the Plaintiffs' employment with Antelope County, Nebraska.

10. The Plaintiffs had either openly supported incumbent Ms. Whorter in her 2014 re-election campaign for Antelope County Assessor and/or failed to support Ms. Mueller in her political campaign for County Assessor in 2014. Each of the Plaintiffs had engaged in constitutionally protected speech or conduct by act or

omission regarding the political campaign and/or election of the Antelope County Assessor in 2014.

11. After engaging in the constitutionally protected speech and/or conduct noted herein, Ms. Mueller retaliated against the Plaintiffs by terminating their employment within minutes of being sworn into office and/or failing to hire them for the positions they had sought with Antelope County.

12. Plaintiff Jennie Martinez also applied for a position with the Antelope County Clerk's office in late 2014 or early 2015; however, due to her their protected speech and conduct noted herein, Ms. Martinez's application for employment was rejected by Lisa Payne, Antelope County Clerk. Plaintiff Martinez was qualified for the position she sought with the Antelope County Clerk's office.

13. All of the aforementioned illegal acts were done while the Ms. Mueller and/or Ms. Payne were acting in the scope and course of the public offices which they held in Antelope County, Nebraska.

14. The Plaintiffs have incurred and will continue to incur general and special damages as a result of the illegal actions noted herein and have incurred attorney's fees and costs.

15. At all times relevant, the Defendant and/or the Antelope County officials and/or elected officers were aware of their duties and obligations under the constitutions and statutes referenced herein. The Defendant's conduct was willful and/or done with a reckless disregard of the Plaintiffs' protected rights.

COUNT I

Plaintiff incorporates paragraphs 1 through 15 as if fully set forth herein.

16. As set forth above, the Defendant retaliated against the Plaintiffs after they engaged in the protected activities noted herein in violation of the Constitutions of the United States of America and State of Nebraska and amendments thereto and 42 U.S.C. Section 1983.

17. As a result of the Defendant's illegal actions, the Plaintiffs have sustained lost wages, compensatory damages and will continue to incur said damages into the future as well as attorney's fees and costs in bringing this action.

18. The Defendant's actions were willful and were done with a reckless disregard of the Plaintiffs' rights.

WHEREFORE, Plaintiffs respectfully requests that this Court assume jurisdiction herein as to all counts alleged herein and grant the following relief:

- a. Declare the conduct of the Defendant to be violative of the rights of the Plaintiffs under the appropriate federal or state constitutions or laws;
- b. Direct the Defendant to reinstate the Plaintiff to their previously held positions and/or the positions they sought with the Defendant with an award of back pay, all the job related benefits and job related increments to which they are entitled, including interest thereon, or to find that reinstatement is not appropriate and to award them front pay according to law;
- c. Award the Plaintiffs compensatory damages for pain, suffering, humiliation, inconvenience and emotional distress in an amount to be determined by the jury;

- d. Award the Plaintiffs appropriate damages for the Defendant's willful and/or reckless conduct in an amount to be determined by the jury;
- e. Enjoin the Defendant from any further retaliation against the Plaintiffs;
- f. Award the Plaintiffs costs and reasonable attorney's fees and such other and further relief as the Court deems just and reasonable and appropriate to correct the wrong done to the Plaintiff.

FOR: JENNIE MARTINEZ and ALBERTA WILLERS,

BY: s/Kathleen M. Neary
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DEMAND FOR JURY TRIAL

Plaintiffs requests a jury trial in Lincoln, Nebraska.

s/Kathleen M. Neary

PRAECIPE

Please issue summons in the above-captioned matter and return the same to the undersigned for service, by Certified Mail, upon the defendant at the following address:

Lisa Payne,
County Clerk of Antelope County, Nebraska
P.O. Box 26
Neligh, NE 68756

s/Kathleen M. Neary